

REMARKS

In response to the non-Final Office Action mailed May 19, 2008, Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following remarks.

Status of the Claims

Prior to the foregoing amendment, Claims 1-6 and 8-36 stand pending. Claim 7 was previously cancelled. Claims 1, 12, 13, 24, 25, and 36 have been amended as noted above. Applicants note that basis in the original disclosure for amendments to the claims can be found, for example, at paragraphs [0109] to [0111], [0117] to [0118] and Figs. 5 and 9 of the specification as published under U.S. Pub. No. 2002/0183718, and is thus proper under 35 U.S.C. § 112, paragraph 1. Applicants believe the amendments add no new matter. Claims 1-6 and 8-36 are currently pending, and stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Pat. No. 6,273,868 to Nordvik in view of U.S. Pat. No. 5,733,319 to Neilson et al.

Rejections under 35 U.S.C. § 103(a)

Claims 1-11

The Examiner rejected Claims 1-11 under 35 U.S.C. § 103(a) as unpatentable over Nordvik in view of Neilson. While Applicants do not necessarily agree with the rejection, Claim 1 has been amended as noted above. Applicants submit that the combination of references cited fails to teach or suggest each and every element of amended Claim 1, *inter alia*, "A closed loop heating system for a nipple aspirate fluid aspiration device, comprising a plurality of inflatable bladders configured to be arranged in series from a first bladder to a last bladder and removably connected to the nipple aspirate fluid aspiration device to provide circumferential compression of a breast for the expression of intraductal fluid; a reservoir; and a fluid flow path comprising an inflow line operably connected to the first bladder in the series and an outflow line operably connected to the last bladder in the series for placing the bladders in fluid communication with the reservoir; wherein the entire closed loop heating system can be operated and removed without exposing a fluid within said closed loop to the outside of the closed loop system; wherein each bladder has an inflated width of no more than about 3 inches and an inflated length of no more

than about 4 inches; and wherein said fluid flow path comprises a movable wall such that fluid in the system can be moved by application of external pressure to the movable wall."

The distinct configuration of the inflatable bladders and flow path within the closed loop system as claimed, e.g., "configured to be arranged in series from a first bladder to a last bladder" and "a fluid flow path comprising an inflow line operably connected to the first bladder in the series and an outflow line operably connected to the last bladder in the series for placing the bladders in fluid communication with the reservoir" is nowhere disclosed in Nordvik. Nordvik (Fig. 3, cited by the Examiner in the Office Action) illustrates a breast cup with annular stimulating members 13-16, of which every second ring 13-16 is connected by tubing 17, 18 to its respective end of a cylinder 19 with an alternating piston. The piston 20 is operated, e.g., by an electric motor 23 via an eccentric sheave 21 and a driving rod 22. When the piston 20 is moved to the left in FIG. 3 of Nordvik, pressurized medium, e.g., compressed air, will be supplied to the rings 14 and 16 via the tube 17, and these rings will expand. When the piston 20 is moved to the right in FIG. 3, pressurized medium, e.g., air, will be supplied to the rings 13 and 15 so that these expand, at the same time as the pressure in the rings 14 and 16 is relieved. This thus generates a pulsating wave toward the nipple (Nordvik, col. 6, lines 47-64). As the Examiner acknowledges in the Office Action, Nordvik fails to teach or suggest a closed loop system as claimed. To the contrary, each of the rings 13-16 configured to expand in an alternating fashion in order to compress a different location on a breast is connected to a single tubing 17 or 18 in a non-series flow path, to achieve Nordvik's objective of generating a pulsating wave toward the nipple.

Even assuming for the sake of argument that Nordvik and Neilson are combinable, a combination of Nordvik and Neilson would result in one of Nordvik's rings connected to a liquid containment unit as disclosed in Neilson. Such a combination would fail to teach or suggest a closed loop system as claimed, e.g., "configured to be arranged in series from a first bladder to a last bladder" and "a fluid flow path comprising an inflow line operably connected to the first bladder in the series and an outflow line operably connected to the last bladder in the series for placing the bladders in fluid communication with the reservoir." Therefore, as the combination fails to teach or suggest each and every element of the invention as claimed, Applicants request that the rejection be withdrawn. Applicants further submit that one of ordinary skill in the art

would have no reason to combine and further modify the references as claimed. As noted above, the embodiment illustrated in Fig. 3 of Nordvik utilizes an alternating piston 20 to accomplish the objective of alternately pressurizing one of two sets of non-adjacent rings 13, 15 or 14, 16, which at least implicitly teaches away from the arrangement of bladders and flow path as claimed.

Moreover, Claims 2-6 and 8-10 depend from Claim 1 and include all of the elements thereof as well as further distinguishing features. Therefore, Applicants submit that these claims are also allowable over the references cited by the Examiner.

While the Examiner has cited to Fig. 3 of Nordvik, Applicants note that none of the other embodiments illustrated teach or suggest the invention as claimed either. Fig. 4 of Nordvik involves a breast cup with four non-serially connected rings 13-16 connected to one another by control valves 25 and 27 having a rotating valve member 26 and 28 with one or more through-going channels, contrary to the arrangement of bladders and flow paths claimed by Applicants. Furthermore, Figs. 1-2 of Nordvik disclose breast cups with non-removable, integrally formed cells or chambers 6 connected by passages 9 and a single supply tube 7, also contrary to the arrangement claimed by Applicants.

Claim 12

Applicants reiterate the discussion of Claim 1 above, and submit that the combination of Nordvik and Neilson fail to teach or suggest each and every limitation of amended Claim 12 as noted above, e.g., "An array of inflatable bladders for use in a breast pump, comprising: at least a first and a second inflatable bladder in a series flow path configured to provide circumferential compression of a breast for the expression of intraductal fluid; a flow path extending between the first and second bladder; a reservoir; and a flow path comprising an inflow line connected adjacent the first bladder and an outflow line connected adjacent the second bladder and between the reservoir and the first and second bladder; said flow path comprising a movable wall such that a fluid in the system can be moved by application of external pressure to the movable wall; wherein each bladder has an inflated width of no more than about 3 inches and an inflated length of no more than about 4 inches; and wherein said array is configured to be removably connected to a breast pump and can be removed from operative association with a pump without exposing

the fluid within said array to the outside of the array of inflatable bladders." Thus, Applicants request that the obviousness rejection be withdrawn.

Claims 13-23

Claims 13-23 are rejected over Nordvik in view of Neilson. Applicants reiterate the discussion of Claim 1 as noted above, and submit for at least those reasons discussed above, Claim 13 is also allowable. Furthermore, Claims 14-23 depend from Claim 13 and include all of the elements thereof as well as further distinguishing features, and therefore should also be allowable over the cited references.

Claim 24

Claim 24 is rejected over Nordvik in view of Neilson. Applicants reiterate the discussion of Claim 12 as noted above, and submit for at least those reasons discussed above, Claim 24 is also allowable.

Claims 25-35

Claims 25-35 are rejected over Nordvik in view of Neilson. Applicants reiterate the discussion of Claim 1 as noted above, and submit for at least those reasons discussed above, Claim 25 is also allowable. Furthermore, Claims 26-35 depend from Claim 13 and include all of the elements thereof as well as further distinguishing features, and therefore should also be allowable over the cited references.

Claim 36

Claim 36 is rejected over Nordvik in view of Neilson. Applicants reiterate the discussion of Claim 12 as noted above, and submit for at least those reasons discussed above, Claim 24 is also allowable.

Application No.: 10/072,543
Filing Date: February 8, 2002

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Co-Pending Applications of Assignee

Applicant wishes to draw the Examiner's attention to the following co-pending applications of the present application's assignee.

Serial Number	Title	Filed
10/209,210	DISPOSABLE PATIENT INTERFACE FOR INTRADUCTAL FLUID ASPIRATION SYSTEM	7/30/02
11/775,751	METHOD AND APPARATUS FOR NONINVASIVE INTRADUCTAL FLUID DIAGNOSTIC SCREEN	7/10/07
11/775,768	DISPOSABLE PATIENT INTERFACE FOR INTRADUCTAL FLUID ASPIRATION SYSTEM	7/10/07

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance in view of the above remarks. Any remarks in support of patentability of one claim, however, should not be imputed to any other claim, even if similar terminology is used. Additionally, any remarks referring to only a portion of a claim should not be understood to base patentability on that portion; rather, patentability must rest on each claim taken as a whole. Applicants respectfully traverse each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches, even if not expressly discussed herein. Although amendments have been made, no acquiescence or estoppel is or should be implied thereby. Rather, the

Application No.: 10/072,543
Filing Date: February 8, 2002

amendments are made only to expedite prosecution of the present application, and without prejudice to presentation or assertion, in the future, of claims on the subject matter affected thereby.

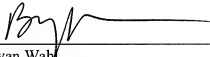
The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claim and drawings in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call the Applicants' attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 11/17/08

By: 
Bryan Wahl
Registration No. 58,878
Attorney of Record
Customer No. 20,995
(415) 954-4114

6085159
101408